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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Cheryl Sam and Carleen Sam, individually and on behalf of themselves and their respective bankruptcy estates, Lawrence Warfield, trustee,

No.

NOTICE OF REMOVAL

Plaintiffs,

V.

The Ledbetter Law Firm, P.L.C., an Arizona professional limited liability company; State Farm Fire and Casualty Company, an Illinois corporation; JOHN and Jane Does I-X; Black and White Partnerships I-X; ABC Corporations 1-X,

Defendants.

Pursuant to 28 U.S.C. §§ 1334, 1446, and 1452, The Ledbetter law Firm, P.L.C. (“Ledbetter”) removes to this Court the state court action described herein. The District of Arizona, specifically the United States Bankruptcy Court for the District of Arizona, has subject matter jurisdiction of this matter pursuant to 28 U.S.C. § 1334(b), because this is a “civil proceeding[] arising under title 11, or arising in or related to cases under title 11.” Ledbetter states the following grounds for removal:

1. On June 12, 2017, plaintiffs filed a civil action for: (1) breach of contract against defendant State Farm Fire & Casualty Company (“State Farm”); (2) breach of the implied covenant of good faith and fair dealing against State Farm; (3) legal malpractice

1 against Ledbetter; and (4) punitive damages against State Farm and Ledbetter, styled:
2 *Cheryl Sam and Carleen Sam, individually and on behalf of themselves and their*
3 *respective bankruptcy estates, Lawrence Warfield, trustee vs. The Ledbetter Law Firm,*
4 *P.L.C., an Arizona professional limited liability company; State Farm Fire And Casualty*
5 *Company, an Illinois corporation; John and Jane Does I-X; Black and White*
6 *Partnerships; ABC Corporations I-X, Case Number CV2017-008891 (the “Superior*
7 *Court Action”).*

8 2. Two days later, on June 14, 2017, plaintiffs filed a First Amended
9 Complaint against the same defendants with the same claims, this time adding a claim
10 against Ledbetter for aiding and abetting State Farm’s alleged bad faith.

11 3. Plaintiffs served and filed an affidavit of service of the First Amended
12 Complaint as to defendant State Farm on June 23, 2017.

13 4. On July 19, 2017, plaintiffs moved the court to permit alternative service on
14 Ledbetter. The Court granted plaintiffs’ motion on July 21, 2017. Plaintiffs allege they
15 effected service on Ledbetter via alternative means on July 23, 2017.

16 5. True and correct copies of the original complaint and First Amended
17 Complaint, and all other filings with the Maricopa County Superior Court prior to this
18 Notice of Removal, are attached at **Exhibit A** pursuant to LRCiv 3.6(b).

19 6. Removal is timely under 28 U.S.C. § 1446(b) and Bankruptcy Rule of Civil
20 Procedure 9027(a)(3), because this Notice of Removal is filed within thirty (30) days after
21 plaintiffs allege they served the First Amended Complaint on Ledbetter.

22 7. Ledbetter may remove this action pursuant to 28 U.S.C. § 1452(a): “A party
23 may remove any claim or cause of action in a civil action other than a proceeding before
24 the United States Tax Court or a civil action by a governmental unit to enforce such
25 governmental unit’s police or regulatory power, to the district court for the district where
26 such civil action is pending, if such district court has jurisdiction of such claim or cause of
27 action under section 1334 of this title.”

28

1 8. This action is one “arising under title 11, or arising in or related to cases
2 under title 11” under 28 U.S.C. § 1334, because this action is brought by a bankruptcy
3 trustee on behalf the bankruptcy estates of two debtors: The Plaintiff in this proceeding,
4 Lawrence Warfield, is the Chapter 7 bankruptcy Trustee in the two Chapter 7 bankruptcy
5 cases of Carleen Sam (bankruptcy Case No. 2:15-bk-14564-DPC) and Cheryl Sam
6 (bankruptcy Case No. 2:16-bk-14565-EPB) pending before Bankruptcy Judges Collins
7 and Ballinger, respectively. The cases have not been consolidated.

8 9. At least four core bankruptcy issues arising under 28 U.S.C. § 1334 and
9 under 11 U.S.C., *et seq.*, are presented in the First Amended Complaint:

10 a. 10. The First Amended Complaint appears to allege some events that
11 transpired pre-petition and, therefore, the Trustee would be asserting his First Amended
12 Complaint as part of each estate’s property under 11 U.S.C. § 541. However, the estates
13 are not consolidated and any adjudication would require attempting to analyze the claims
14 of each bankruptcy estate, which are core issues under 28 U.S.C. § 1334.

15 b. 15. Each of the two Chapter 7 Debtors has been discharged of all her
16 debts on March 7, 2016. The First Amended Complaint appears to allege damages that
17 rely upon, and relate directly to, debts that have already been discharged. The First
18 Amended Complaint’s allegations present a necessary adjudication of the extent, nature,
19 and effect of the Debtors’ discharges under 11 U.S.C. § 727, which is a core issue under
20 28 U.S.C. § 1334.

21 c. 21. Determination of the standing of a bankruptcy trustee to pursue
22 causes of action is a core adjudication under 11 U.S.C. §§ 323 and 541, particularly since
23 the First Amended Complaint’s allegations appear to reference events both before and
24 after the date of the bankruptcy petition requiring the determination of the extent of the
25 Chapter 7 bankruptcy estate.

26 d. 26. The allegations of the First Amended Complaint directly raise core
27 issues under 11 U.S.C. § 109(a) regarding the financial counseling requirement by a third
28 party as a requisite to the filing of a Chapter 7 individual debtor petition, and the conduct

1 of the debtors' lawyer in connection with the filing and handling of a bankruptcy case.
2 *Grausz v. Englander*, 351 F.3d 467 (4th Cir. 2003).

3 10. Pursuant to 28 U.S.C. § 1446 and LRCiv 3.6(a), Ledbetter is this date giving
4 written notice of the removal of this action to plaintiffs and State Farm, and also is filing a
5 copy of this Notice of Removal with the Clerk of the Superior Court of the State of
6 Arizona in and for the County of Maricopa, a copy of which is attached as **Exhibit B**.

7 WHEREFORE, Ledbetter requests that this Notice of Removal be filed, the
8 Superior Court Action be removed to and proceed hereafter in this Court, and no further
9 proceedings be had in the Superior Court Action.

10 DATED this 21st day of August, 2017.

11 SNELL & WILMER L.L.P.

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13 By: s/ Donald L. Gaffney
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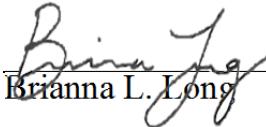
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VERIFICATION OF BRIANNA L. LONG

2 1. I am an active member in good standing of the State Bar of Arizona and
3 associated with the law firm of Snell & Wilmer L.L.P., counsel for
4 Defendant The Ledbetter Law Firm, P.L.C. ("Ledbetter"). I have firsthand
knowledge of the matters set forth herein. I submit this verification
pursuant to LRCiv P. 3.6 and Fed. R. Civ. P. 11.

5 2. Attached as Exhibits are true and complete copies of all pleadings and other
6 documents filed in the state court civil action originally commenced in the
7 Superior Court of the State of Arizona, in and for the County of Maricopa,
entitled *Cheryl Sam, et al. v. The Ledbetter Law Firm, P.L.C., et al.*, Case
No. CV2017-008891.

8 I verify that the foregoing is true and correct.

9 Executed this 21st day of August, 2017, at Phoenix, Arizona.

10 
11 Brianna L. Long

12 4814-6939-4509

13 Snell & Wilmer
14 L.L.P.

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